

## REMARKS

This Amendment is submitted in reply to the final Office Action mailed on November 2, 2007. No fee is due in connection with this Amendment. The Director is authorized to charge any fees which may be required, or to credit any overpayment to Deposit Account No. 02-1818. If such a withdrawal is made, please indicate the Attorney Docket No. 112701-446 on the account statement.

Claims 1-4, 6-9 and 11-25 are pending in this application. In the Office Action, Claims 1-4, 6-9 and 13-25 are rejected under 35 U.S.C. §102 and Claims 11-12 are rejected under 35 U.S.C. §103. In response Claims 1-4, 6-9 and 11-25 have been deleted and Claims 26-44 have been added. These amendments do not add new matter. In view of the amendments and/or for the reasons set forth below, Applicants respectfully submit that the rejections should be withdrawn.

In the Office Action, Claims 1-4, 6-9 and 13-25 are rejected under 35 U.S.C. §102(e) as being unpatentable over U.S. Patent No. 6,459,854 to Yoakim et al. ("*Yoakim*"). Applicants believe this rejection is improper and respectfully traverse it for at least the reasons set forth below.

Applicants have canceled Claims 1-4, 6-9 and 11-25 without prejudice or disclaimer. Applicants have added new Claims 26-44. No new matter has been added. Claim 26 replaces canceled Claim 1 and defines the arrangement of the resistors according to the present disclosure in a more precise manner. For example, Claim 26 specifies that the arrangement of resistors comprises a first resistor (R1) to heat liquid at a first temperature on a first part of a tube or flat base and a set of at least two resistors (R2, R3) placed on another part of the tube or flat base to heat the liquid from said first temperature to a final desired temperature. The support for the new claims can be found in the specification, for example, at page 3, line 33 to page 6, line 16.

Claim 26 further specifies more clearly the different combinations for mounting the resistors according to the subject matter disclosed in the description, in particular, in relation to the examples (see for instance the table and Figure 1). The reference to a first temperature and to a final temperature can be deduced by a man skilled in the art reading the description, which provides specific examples of temperature variations. It is also clear that a principle

of the invention works with a great variety of desired temperatures (first and final temperatures) and that no specific temperature would constitute an essential limiting feature of the invention.

Claim 26 as amended now specifies at least five possible resistor arrangements including: 1) Resistor R1 empowered individually, 2) Resistor R2 of said set empowered individually, 3) Resistors R1 and R2 empowered in parallel, 4) Resistor R2 and R3 of said set empowered in serial, and 5) Resistor R1 empowered in parallel with R1 and R3 in serial. Accordingly, the wording of Claim 26 includes a resistor system in which (with a minimum number of resistors on the heater but arranged in various possible circuit arrangement) it is possible to deliver at least five different power values throughout the heating process that contributes to more finely control the liquid final temperature.

An advantage of the present disclosure is to be able to use, with a minimal number of resistors, a sufficient number of power combinations that provides more accurate temperature control. In contrast, *Yoakim* (USP 6,459,854) is directed to a liquid heating module in the form of a tube with a set of several resistors. The resistors are individually empowered. A first resistor is placed on a first part of the tube whereas the second resistor is placed on a second part of the tube. The problem of *Yoakim* is that, because of this simple electrical arrangement, the number of resistors must be increased to obtain a sufficient number of power values enabling to accurately control the temperature of the liquid in the tube. As a result, *Yoakim* fails to disclose such a high number of possible combinations of power values while utilizing only a limited number of resistors. For at least the reasons discussed above, Applicants respectfully submit that independent Claims 26-44, are novel, nonobvious and distinguishable from the cited reference.

Accordingly, Applicants respectfully request that the rejection under 35 U.S.C. §102 be withdrawn.

In the Office Action, Claims 11-12 are rejected under 35 U.S.C. §103(a)/§102(e) as being unpatentable over *Yoakim*. Applicants respectfully submit that the present application, Application Serial Number 10/521,029, and *Yoakim* were, at the time the invention of Application Serial Number 10/521,029 was made, owned by Nestec S.A. or subject to an obligation of assignment that would establish common ownership by Nestec S.A. Therefore, in accordance with 35 U.S.C. §103/§102(e), Applicants respectfully submit that *Yoakim* should be

removed as a reference as stated in 35 U.S.C. 103(e), and that this rejection should be withdrawn. See, MPEP 2146.

For the foregoing reasons, Applicants respectfully request reconsideration of the above-identified patent application and earnestly solicit an early allowance of same. In the event there remains any impediment to allowance of the claims which could be clarified in a telephonic interview, the Examiner is respectfully requested to initiate such an interview with the undersigned.

Respectfully submitted,

BELL, BOYD & LLOYD LLC

BY 

Robert M. Barrett  
Reg. No. 30,142  
Customer No. 29157  
Phone No. 312-807-4204

Dated: January 21, 2008